

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TOM HUSSEY PHOTOGRAPHY, LLC,

Plaintiff,

v.

BDG MEDIA, INC.,

Defendant.

Case No. 21-cv-03514-AT

**REPLY DECLARATION OF  
ELEANOR M. LACKMAN**

I, ELEANOR M. LACKMAN, declare as follows:

1. I am a member of the Bar of this Court and a partner in the law firm of Mitchell Silberberg & Knupp LLP, attorneys for defendant BDG Media, Inc. (“BDG”) in this proceeding. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto. I submit this Reply Declaration in further support of BDG’s Motion to Dismiss.

2. Attached hereto as **Exhibit A** is a true and correct copy of a comparison between plaintiff Tom Hussey Photography, LLC’s (“THP”) “Answering Brief in Opposition” to BDG’s motion to dismiss the Amended Complaint (the “Original Opposition”; D.I. 34), filed by THP in the District of Delaware on April 5, 2021, and THP’s supplemented “Opposition” to BDG’s motion (the “Supplemental Opposition Brief”; D.I. 48), filed by THP with this Court on June 23, 2021. To generate the comparison document, my office used Microsoft Word’s “Compare” tool, and used the “Original Opposition” as the “older” version, and the “Supplemental Opposition Brief” as the “newer” version. Once the two versions were uploaded to the software, a document red-lining the differences between the older and newer versions (attached as Exhibit A) was produced.

3. Attached hereto as **Exhibit B** is a true and correct copy of a comparison between BDG's "Reply Brief" in further support of its motion (the "Original Reply"), served on THP on April 19, 2021, and BDG's supplemental "Reply Brief" (the "Supplemental Reply Brief"), filed contemporaneously with this Declaration on July 7, 2021. To generate the comparison document, my office used Microsoft Word's "Compare" tool, and used the "Original Reply" as the "older" version, and the "Supplemental Reply Brief" as the "newer" version. Before the comparison was conducted, the table of contents and table of authorities were removed from both documents, as they were extraneous. Once the two versions were uploaded to the software, a document red-lining the differences between the older and newer versions (attached as Exhibit B) is produced.

4. Attached hereto as **Exhibit C** is a true and correct copy of a comparison between BDG's "Opening Brief" in support of its motion (the "Moving Brief"; D.I. 28), filed in the District of Delaware on March 17, 2021, and BDG's "Supplemental Moving Brief" (D.I. 47) filed with this Court on June 2, 2021. To generate the comparison document, my office used Microsoft Word's "Compare" tool, and used the "Moving Brief" as the "older" version, and the "Supplemental Moving Brief" as the "newer" version. Before the comparison was conducted, the table of contents and table of authorities were removed from both documents, as they were extraneous. Once the two versions were uploaded to the software, a document red-lining the differences between the older and newer versions (attached as Exhibit C) is produced. This document was annexed to BDG's Supplemental Moving Brief as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York on this 7th day of July 2021.

  
ELEANOR M. LACKMAN